

# EXHIBIT A

STATE OF NEW YORK  
DEPARTMENT OF LABOR



DIVISION OF LABOR STANDARDS

### GUIDELINES - CIVIL PENALTIES FOR LABOR LAW VIOLATIONS

Effective May 25, 1990, Section 218 of the New York State Labor Law provides for the imposition of civil penalties of up to \$1,000 for a first violation, \$2,000 for a second violation or \$3,000 for a third or subsequent violation of Labor Law Article Six (Payment of Wages) and Article Nineteen (Minimum Wage Act) by an employer, where the violation is for a reason other than the employer's failure to pay wages, benefits or wage supplements found to be due.

The following guidelines identify the various violations and establish a range of monetary assessments. They are general in nature and may not cover every specific situation. In determining the appropriate monetary amount within the range shown, consideration will be given to the criteria enumerated in the statute, namely "the size of the employer's business, the good faith of the employer, the gravity of the violation [and] the history of previous violations."

#### PENALTIES

FIRST VIOLATION	\$ 0 - \$1,000
SECOND VIOLATION	\$ 500 - \$2,000
THIRD AND SUBSEQUENT VIOLATION	\$2,000 - \$3,000

#### VIOLATIONS

##### **I. ARTICLE 6**

- a. Failure to make timely payment of wages, commissions or agreed benefits. (Sec. 191.1a, 191.1b, 191.1c, 191.1d, 191.3, 198-c)
- b. Failure to furnish commission salesman, upon written request, a statement of earnings paid or due and unpaid. (Sec. 191.1c)
- c. Payment of wages by check without a permit. (Sec. 192.1)
- d. Direct deposit of wages without written consent of employee. (Sec. 192.2)
- e. Prohibited deductions from wages, either direct or indirect. (Sec. 193.1, 193.2)
- f. Differential in rate of pay because of sex. (Sec. 194)
- g. Failure to notify employees of the pay rate or pay day. (Sec. 195.1, 195.2)
- h. Failure to give employees a complete wage statement with every wage payment or to furnish employees, upon request, an explanation of how wages were computed. (Sec. 195.3)
- i. Failure to maintain complete and accurate payroll records. (Sec. 195.4)
- j. Failure to notify employees in writing or to post notice of hours and fringe benefit policy. (Sec. 195.5)
- k. Failure to notify employee terminated from employment, in writing and within five working days after the date of termination, of the exact date of such termination as well as the exact date of cancellation of employee benefits connected with such termination. (Sec. 195.6)
- l. Appropriation of employees' tips. (Sec. 196-d)
- m. Requiring a "kick-back" of wages. (Sec. 198-b) <sup>[1]</sup>
- n. Failure to post copy of Sec. 193, prohibited deductions from wages, and Sec. 196-d, appropriation of tips. (Sec. 198-d) <sup>[2]</sup>

<sup>[1]</sup> Penalty for first and subsequent violation is \$2,500 - \$5,000

<sup>[2]</sup> Required of employers engaged in the sale or service of food or beverages.

2. ARTICLE 19

- a. Failure to post the Labor Department's Minimum Wage poster. (Sec. 661)
- b. Failure to maintain complete and accurate payroll records. (Sec. 661)
- c. Failure to permit Labor Department investigators to conduct employee interviews. (Sec. 661)

3. MINIMUM WAGE ORDERS

Failure to give employees a complete wage statement with every wage payment. (Wage Order Sections 137-2.2, 138-3.2, 141-2.2, 142-2.7, 142-3.8)

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CONFERENCE PRIOR TO ASSESSMENT OF PENALTY. After a violation is reported, a conference may be scheduled affording the employer the opportunity to be heard on the reported violation. A determination regarding the assessment of a civil penalty will be made following the conference.

RIGHT TO APPEAL. If the employer is aggrieved by the determination following such conference, the employer has the right to appeal such determination within 60 days of the date of issuance to the Industrial Board of Appeals, 194 Washington Avenue, Albany, New York 12210 as prescribed by its Rules of Procedure.

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FOR INFORMATION REGARDING NEW YORK STATE LAWS, PLEASE COMMUNICATE WITH THE NEAREST OFFICE OF THE DIVISION OF LABOR STANDARDS LISTED BELOW:

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